IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

Crl.MC.No. 2463 of 2007()

CC.1959/2001 of JUDL.MAGISTRATE OF FIRST CLASS-II, ERNAKULAM
CRIME NO.84/2001 OF ERNAKULAM TOWN NORTH POLICE STATION

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PETITIONER: ACCUSED

SIRAJUDEEN.M.A., S/O.AMMU .M.A.,
AGED 29 YEARS, DRIVER, MEEDRAKKAL HOUSE,
N.A.D.,NOCHIMA KARA, ALUVA EAST VILLAGE,
ALUVA TALUK, ERNAKULAM DISTRICT.

BY ADV. SRI.P.M.ZIRAJ

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR,
HONOURABLE HIGH COURT OF KERALA, ERNAKULAM
REPRESENTED BY SUB INSPECTOR OF POLICE,
ERNAKULAM TOWN NORTH POLICE STATION.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 02/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2463 of 2007

Dated this the 2nd day of August 2007

O R D E R

The petitioner faces indictment in a prosecution inter alia under Section 379 I.P.C. Investigation is complete. Final report was filed. Cognizance was taken in 2001. The petitioner could not appear before the learned Magistrate. Consequently, the learned Magistrate has issued a warrant of arrest to secure the presence of the petitioner. The petitioner finds the said warrant of arrest chasing him.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful. The petitioner now wants to surrender before the learned Magistrate. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate.

4. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

5. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007